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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 24

[T.D. ATF-418 Re: T.D. ATF--398, Notice No. 859 and Notice No. 869]
RIN 1512-AB71

Hard Cider; Postponement of Labeling Compliance Date (97-2523)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule postpones the mandatory date for the labeling of hard cider. In the Proposed Rules section of this Federal Register, ATF is also issuing a notice of proposed rulemaking inviting comments on proposed changes to the label requirements for hard cider for a 60-day period following the publication of the notice.

DATES: Effective date: This document is effective retroactive to February 17, 1999.

Compliance date: Compliance with the hard cider labeling requirements in 27 CFR 4.21 and 24.257 is not mandatory until September 27, 2000.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226; (202) 927-8230; or mdruhf@atf.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1998, the Bureau of Alcohol, Tobacco and Firearms (ATF) issued a temporary rule to implement various sections of the Taxpayer Relief Act of 1997, Public Law 105-34 ("the Act"). Section 908 of the Act amended the Internal Revenue Code of 1986 (IRC) to create a new excise tax category for hard cider. The temporary rule, T.D. ATF-398 (63 FR 44779) included rules for labeling hard cider. On the same

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day, ATF issued a notice of proposed rulemaking, Notice No. 859 (63 FR 44819), inviting comments on this temporary rule for a 60 day period. In response to requests from the industry, ATF reopened the comment period for an additional 30 days on November 6, 1998, by Notice No. 869 (63 FR 59921).

ATF received 45 comments in response to these notices. Two comments addressed the issue of semi-generic wine designations (also covered in the temporary rule and notices), and all the rest concerned the hard cider rules. All the comments will be discussed in a future final rule, but ATF has identified one area, labeling of hard cider, where comments indicate the temporary rule as originally issued imposes an unintended and unnecessary burden. By this document, we are postponing the compliance date for the hard cider labeling rules (originally February 17, 1999), so that we can develop alternative labeling rules. The temporary rule and the specific comments are discussed in detail in the notice of proposed rulemaking published in this issue of the Federal Register.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) relating to a final regulatory flexibility analysis do not apply to this rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law. Pursuant to 26 U.S.C. 7805(f), this temporary rule will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no new collection of information is contained in this Treasury decision.

Administrative Procedure Act

This document merely defers a compliance date for labeling rules for hard cider while ATF considers alternative labeling requirements. In view of the immediate need to inform the industry of this action, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation in section 553(d).

Drafting Information: The principal author of this document is Marjorie Ruhf, of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavoring, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Therefore, pursuant to the authority set forth in 26 U.S.C. 5368 and 27 U.S.C. 205(e), ATF is postponing the compliance date with respect to the use of the term "hard cider" set forth in 27 CFR 4.21(e)(5) and 24.257(a)(3)(iii) and (iv) to September 27, 2000.

Dated: June 16, 1999.
John W. Magaw,
Director.

Dated: August 13, 1999.
John P. Simpson,
Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. **99-24833 Filed** 9-24-**99**; 8:45 am]
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